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BEVERLY FRAME  
CLERK OF SUPERIOR COURT  
YUMA, ARIZONA 85364

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YUMA

IN THE MATTER OF:

BUDGET OF SUPERIOR COURT CLERK  
FOR FISCAL YEAR 1997-1998

Administrative Order  
No. 97-30

Pursuant to Ariz. Const., Art. 6, §§ 3 and 11, Administrative Rule V-A(III)(H), Administrative Rules of the Arizona Supreme Court, the administrative authority of this Court, and in support of this Administrative Order, this Court makes the following findings and conclusions:

1. The office of Clerk of the Superior Court of the State of Arizona in and for the County of Yuma ("the Clerk") is established pursuant to Ariz. Const., Art. 6, § 23, and the responsibilities of the Clerk are further amplified in A.R.S. §§12-281 through 12-286, and by Rule 3, Uniform Rules of Practice of the Superior Court. The Clerk is a part of the judicial branch of Arizona government.

2. On June 4, 1997, at a Special Budget Session of the Yuma County Board of Supervisors ("the Board"), this Court participated in submitting to the Board a coordinated budget for the Superior Court of the State of Arizona in and for the County of Yuma ("the Superior Court"), the Clerk, the Yuma County Adult Probation Department, the Juvenile Court of the Superior Court, and the Justice of the Peace

1 Courts in Yuma County.

2 3. At the Special Budget Session of the Board, the Clerk specifically  
3 submitted to the Board a "requested" budget, in the total amount of \$852,502.00,  
4 which was requested for funding the needs of the Clerk's office for the fiscal year  
5 1997-1998 ("97-98"). This amount exceeded the Clerk's reduced "final" budget for  
6 fiscal year 1996-1997 ("96-97") by less than 1% and was approximately 2% less than  
7 the Clerk's "final" budget approved by the Board for fiscal year 1995-1996 ("95-96").  
8 The reduced "final" budget for fiscal year 96-97 was \$846,492.00 and the Clerk's  
9 "final" budget approved for fiscal year 95-96 was \$866,962.00. For various reasons, in  
10 95-96, the Clerk actually spent only \$812,655.00 and returned \$54,307.00 to the  
11 general fund.

12 4. The materials, "requested" budget, lists of mandated responsibilities,  
13 personnel assignments and statements presented to the Board for and in behalf of the  
14 Clerk at the June 4, 1997, Special Budget Session of the Board are adopted in support  
15 of this Administrative Order as findings and conclusions of this Court.

16 5. On June 27, 1997, this Court "hand delivered" it's letter of that same date  
17 to the Board in an attempt to reasonably, personally, professionally and sincerely  
18 express and emphasize to the Board the needs of the Clerk as set forth in the Clerk's  
19 "requested" budget for fiscal year 97-98. The contents of this letter are adopted as a  
20 part of these findings and conclusions.

21 6. The only response from the Board to this Court's June 27, 1997, letter  
22 was the Board's adoption of the "tentative" budget on June 30, 1997. In the  
23 "tentative" budget, the Board arbitrarily reduced the 96-97 fiscal year "final" budgets  
24 of most Yuma County Departments, including the Clerk, by an "across the board"  
25 amount of 4.53 %. The amount budgeted for the Clerk in the fiscal year 97-98  
26 "tentative" budget is \$808,113.00. This is \$4,542.00 less than the fiscal year 95-96  
27 actual expenditures by the Clerk. Such action had no reasonable or considered relation  
28 to the needs of the Clerk's office and merely compounded the arbitrary budget cuts

1 made by the Board in fiscal year 96-97.

2 7. The "final" budgets of the Yuma County Departments, including the  
3 Clerk, for the fiscal year 96-97 were arrived at by the Board arbitrarily reducing most  
4 Yuma County Department's 96-97 fiscal year "tentative" budgets, including the  
5 Clerk's, by an "across the board" amount of 5% and using that reduced sum as the  
6 "final" 96-97 budget. Again, such prior action had no reasonable or considered  
7 relation to the needs of the individual Departments.

8 8. Unless corrected, this arbitrary Board action in setting the budget of the  
9 Clerk will result in the 97-98 budget of the Clerk being 9.53% less than the Clerk's  
10 "tentative" budget for fiscal year 95-96, notwithstanding inflationary increases in costs  
11 of operation, increased caseloads and mandated duties during this same period. A  
12 summary of the Clerk's previous budgets, approved by the Board, reflects the  
13 following:

|    |                   |              |
|----|-------------------|--------------|
| 14 | 95-96 "Final"     | \$866,962.00 |
| 15 | 96-97 "Final"     | 846,492.00   |
| 16 | 97-98 "Tentative" | 808,113.00   |

17 9. On July 14, 1997, this Court again "hand delivered" it's letter of the  
18 same date to the Board. The letter invited the Board to contact this Court if there were  
19 any questions concerning the contents of that letter. The letter attempted to open an  
20 avenue of discussion between this Court and the Board in hopes of arriving at a  
21 reasonable solution to the budgetary concerns of the Clerk. The contents of this letter  
22 are adopted as a part of these findings and conclusions.

23 10. Again, this Court has received no response to these efforts or to it's July  
24 14, 1997, letter.

25 11. The Clerk and this Court have exercised and exhausted good faith efforts  
26 to meet the 97-98 fiscal year budgetary needs of the Clerk within the context of the  
27 procedures, processes and policies existing in Yuma County for such purposes.

28 12. For somewhat similar reasons, the Yuma County Treasurer, the Yuma

1 County School Superintendent, and the Yuma County Recorder have found it necessary  
2 to file a Complaint in Special Action, Yuma County Superior Court Civil Case No.  
3 SC97V000472, naming the Board and it's members as defendants. An initial hearing  
4 in such litigation is presently set for August 1, 1997, at 11:00 a.m. before the Hon.  
5 Roger W. Kaufman, Presiding Civil Judge, Maricopa County Superior Court. In those  
6 proceedings, the depositional testimony of Alfretta Danielewicz, an employee of the  
7 Yuma County Finance Department, has been preserved and certain records of Yuma  
8 County and audio tape recordings of various meetings of the Board were identified  
9 during the course of that deposition. The facts identified in such deposition, records,  
10 and the audio taped recordings of the Board meetings held May 1, 1997, June 2, 4, 5  
11 and 30, 1997, and July 16 and 18, 1997, are adopted as findings in support of this  
12 Court's conclusions and this Administrative Order as they relate to these budgetary  
13 issues and the actions of the Board.

14 13. Similarly, Presiding Justice of the Peace, Hon. Richard W. Donato, has  
15 served the Board with a Memorandum dated July 11, 1997, requesting the Board to  
16 restore \$42,091.00 cut from the fiscal year 97-98 "requested" budget of the Justice  
17 Courts. That Memorandum is incorporated herein as a part of this Court's findings.

18 14. There are ample Yuma County funds available with which to fund the  
19 needs expressed in the current "requested" budget of the Clerk without exceeding the  
20 "tentative" budget or the property tax rate proposed for adoption by the Board as a  
21 "final" budget and property tax rate at the Board's meeting presently scheduled for  
22 Monday, August 4, 1997. In it's "tentative" budget, the Board has identified  
23 approximately \$2,300,000.00 for a general emergency fund. This is in addition to  
24 substantial funds set aside in various contingency funds. It is also in addition to  
25 substantial funds set aside in various capital improvement funds which have been  
26 rolled over from year to year. It is also in addition to substantial funds budgeted for  
27 discretionary, non-mandated expenditures. Further, the "tentative" budget for fiscal  
28 year 97-98 does not fix a tax rate in the full amount authorized by law. It establishes

1 a property tax rate of approximately \$.38 per \$100.00 of assessed valuation. The law  
2 would have authorized the Board to increase the property tax rate to approximately  
3 \$.44 per \$100.00 of assessed valuation.

4 15. In arriving at the fiscal year 97-98 "tentative" budget, the Board cut from  
5 the "requested" budgets of the following Yuma County Departments the sums  
6 indicated:

|    |                       |                  |
|----|-----------------------|------------------|
| 7  | Clerk                 | \$44,389.00      |
| 8  | Justice Courts        | 42,091.00        |
| 9  | Treasurer             | 73,230.00        |
| 10 | School Superintendent | 47,390.00        |
| 11 | Recorder              | <u>52,728.00</u> |
| 12 | Total                 | \$259,828.00     |

13 16. To fund the necessary services as requested by the Clerk, and the Justice  
14 Courts, the taxpayers of Yuma County will not be required to pay any additional taxes  
15 and no increase in the property tax rate will be required beyond that already approved  
16 by the Board in the "tentative" budget.

17 17. The findings and conclusions expressed in paragraph numbers 14, 15 and  
18 16 are included only as they may be relevant to the reasonableness of any procedures  
19 which the Board may suggest were required to be followed before this Administrative  
20 Order may issue or any such procedures which the Board may attempt to impose  
21 subsequent to the issuance of this Order.

22 18. The increased workload of the Clerk's office during the last year is  
23 reflected in the following statistics:

- 24 a. 8% increase in over-all case filings;
- 25 b. 31% increase in minute entries required to be prepared by
- 26 employees of the Clerk's office;
- 27 c. 25% increase in Court proceedings held and requiring the presence
- 28 of an employee of the Clerk's office;

- d. 32% increase in documents/pleadings filed and requiring the services of an employee of the Clerk's office to file and docket the document or pleading;
- e. 30% increase in child support orders issued;
- f. 8% increase in child support monies collected;
- g. 18% increase in child support wage assignments processed and served on employers;
- h. 20% increase in demand for personnel time in processing child support orders, modifications, and wage assignments; and
- I. 15% increase in demand for personnel time in processing documents filed, minute entries and calendaring.

19. It is the responsibility of the Presiding Judge to assure that the Clerk is in compliance with the Arizona Supreme Court Accounting Standards. This responsibility cannot be considered "lightly" because the Clerk collects approximately \$1,500,000.00 in fees, fines and restitution for victims, and approximately \$5,500,000.00 in child support, annually. All of these funds must be properly handled and accounted for and the Arizona Supreme Court Accounting Standards require a segregation of duties with at least 3 people to perform cash receipts and disbursements.

20. Presently, the Clerk is attempting to operate her office with a shortfall of 2 full time employees. This is expected to continue even within the \$852,502.00 budget request. If the Board reduces the Clerk's "requested" budget to \$808,113.00 it will result in the loss of 2 more full time positions. Such a shortfall of personnel will prevent the Clerk from fully and timely performing mandated services to this Court, the customers of that office and the citizens and taxpayers of Yuma County.

21. History has established that when the Board fails to adequately fund the Clerk, it results in that office being unable to fully and timely perform the mandated duties imposed upon that office. This Court takes judicial notice of the findings made by the Hon. Douglas W. Keddie, then Presiding Judge of this Court, in Administrative

1 Order No. 91-15 dated and filed June 27, 1991, and incorporates the same in support  
2 of the present Administrative Order.

3 22. The sums requested by the Clerk in the amount of \$852,502.00 for fiscal  
4 year 97-98 are reasonable and necessary to carry out the duties and obligations  
5 required and mandated for that office in providing services to, and support for, this  
6 Court during fiscal year 97-98.

7 For the foregoing reasons,

8 IT IS ORDERED that the Board of Supervisors of the County of Yuma, State of  
9 Arizona, shall include in it's "final" budget to be adopted for the fiscal year 1997-1998  
10 the sum of \$852,502.00 for use by the Clerk of the Superior Court in the performance  
11 of her duties during the 1997-1998 fiscal year.

12 IT IS FURTHER ORDERED that the Board of Supervisors of the County of  
13 Yuma, State of Arizona, shall fund and make available to the Clerk of the Superior  
14 Court, for use during the fiscal year 97-98, monies in an amount no less than  
15 \$852,502.00

16 DATED this 23<sup>rd</sup> day of July, 1997.

17   
18 \_\_\_\_\_  
19 Presiding Judge

20 Copies to:

21 Hon. Thomas A. Zlaket, Chief Justice, Arizona Supreme Court  
22 Dave Byers, Administrative Director, AOC  
23 Superior Court Judges  
24 Hon. H. Stewart Bradshaw  
25 Hon. Thomas A. Thode  
26 Hon. Philip L. Hall  
27 Hon. Kirby Kongable  
28 Steve Gallaher, Court Administrator  
Beverly Frame, Clerk  
Clyde Cuming, Chairman, Yuma County Board of Supervisors  
Wally Hill, County Administrator  
Helen Leslie Hall, Office of the Attorney General  
Thomas I. McClory, Office of the Attorney General